

Message Text

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ORIGIN TRSE-00

INFO OCT-01 EUR-12 ISO-00 FEA-01 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15
STR-04 ITC-01 USIA-06 PRS-01 SP-02 OMB-01 /088 R

DRAFTED BY TREAS:LPOTTS:JH
APPROVED BY EB/OT/STA:JSSPIRO
TREAS:POSUCHMAN
EB/OT/STA:MCJONES
EUR/CE:RCASAGRANDE (SUBS)
STR:HLAWRENCE (INFO)
-----040038Z 047611 /21
P 032310Z PEB 77
FM SECSTATE WASHDC
TO AMEMBASSY VIENNA PRIORITY
INFO AMCONSUL FRANKFURT PRIORITY

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FRANKFORT PASS CUSTOMS SERVICE -- TABORSKY

E.O. 11652:N/A

TAGS: ETRD, AU

SUBJECT: ANTIDUMPING PROCEEDINGS -- REOPENING OF INVESTIGATION OF RAILWAY TRACK MAINTENANCE EQUIPMENT

REF: A) VIENNA 296 B) VIENNA 600

, TREASURY DAS SUCHMAN MET WITH AUSTRIAN EMBASSY OFFICIAL BIRBAUM ON FEBRUARY 2. CHIEF PROBLEM WITH GOA APPEARS TO HAVE RESULTED FROM A MISUNDERSTANDING ABOUT WHAT INFORMATION WAS GIVEN BIRBAUM IN OCTOBER. TREASURY MISTAKINGLY
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BELIEVED GOA TO BE IN POSSESSION OF ALL NON-CONFIDENTIAL PORTIONS OF ANTIDUMPING PETITIONS. AUSTRIAN EMBASSY DID NOT INFORM TREASURY THAT THROUGH ERROR SOME PRICE DATA WAS NOT DISCLOSED UNTIL FEBRUARY 2 MEETING. THIS DATA WAS IMMEDIATELY GIVEN TO BIRBAUM WHO WILL FORWARD TO GOA.

2. INFORMATION PREVIOUSLY REQUESTED FROM USG BY BOTH AMERICAN EMBASSY VIENNA AND COUNSEL FOR PLASSER AND THEUERER (P AND T) INCLUDED COPIES OF PETITIONS FROM DOMESTIC FIRMS, TAMPER AND KERSHAW. THESE WERE GIVEN TO BOTH AUSTRIAN EMBASSY WASHINGTON (BIRBAUM) AND P AND T COUNSEL AT TIME OF REOPENING OF INVESTIGATION (11/1/76).

WE DO NOT KNOW IF THIS INFORMATION WAS FORWARDED TO TRADE MINISTRY AND/OR P AND T AND THEREFORE WE ARE FORWARDING PETITIONS TO EMBASSY BY POUCH AND COUNSEL FOR P AND T (JERRY AKMAN). AKMAN ARRIVING VIENNA AFTERNOON MONDAY FEBRUARY 7 AND WILL TELEPHONE EMBASSY AFTER ARRIVAL. PLEASE PASS TO MINISTRY AND P AND T OFFICIALS IMMEDIATELY AND REPORT THEIR REACTIONS.

3. INCLUDED ARE THREE SUBMISSIONS BY DOMESTIC COMPLAINANTS COMPRISING BASIS FOR TREASURY REOPENING OF INVESTIGATION. CERTAIN INFORMATION CONTAINED IN THOSE SUBMISSIONS IS CONFIDENTIAL, RELATING TO SALES, PRODUCTION, PROFIT, LOSS ETC., OF DOMESTIC COMPLAINANTS AND CANNOT BE RELEASED. THIS INFORMATION HAS BEEN DELETED CONSISTENT WITH TREASURY POLICY, U.S. LAW AND GATT RULES (ARTICLE 6C). SUMMARY OF INFORMATION INDICATES DUMPING MARGINS IN A RANGE FROM 23 TO 100 PER CENT BASED ON P AND T 1976 SALES TO THE U.S. AND SEVERAL THIRD COUNTRIES. WHILE U.S.G. DOES NOT BELIEVE THAT INTERNATIONAL ANTIDUMPING CODE REQUIRES RE-NEWED INJURY DATA BE SUBMITTED IN CASE OF REOPENING OF AN INVESTIGATION WHERE PREVIOUSLY GIVEN PRICE ASSURANCES MAY HAVE BEEN VIOLATED WE NOTE THAT SUCH INFORMATION IS PRESENT IN THIS CASE AND INDICATES INTER ALIA A LIMITED OFFICIAL USE

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DRAMATIC INCREASE IN U.S. MARKET SHARE HELD BY AUSTRIAN BALLAST REGULATORS FROM 22 PERCENT IN EARLY 1976 TO 38 PERCENT IN FALL 1976. DATA ALSO INDICATES THAT MARGIN BY WHICH DOMESTIC FIRMS BEING UNDERSOLD BY AUSTRIAN PRODUCT WOULD BE TOTALLY ELIMINATED BY ELIMINATION OF ALLEGED MARGINS OF DUMPING.

4. COPY OF GATT ANTIDUMPING CODE IS ALSO BEING POUCHED. NOTE ARTICLE 6C PROVIDES AUTHORITIES TREAT AS "STRICTLY CONFIDENTIAL" ALL INFORMATION THE DISCLOSURE OF WHICH "WOULD BE OF SIGNIFICANT COMPETITIVE ADVANTAGE TO A COMPETITOR". INFORMATION OF THIS NATURE SUPPLIED BY FOREIGN, AS WELL AS DOMESTIC, FIRMS IS GIVEN CONFIDENTIAL TREATMENT BY USG AS REQUIRED BY CODE.

5. OTHER INFORMATION REQUESTED BY COUNSEL FOR P AND T CONSISTED GENERALLY OF DOCUMENTS PREPARED BY TREASURY STAFF FOR INTERNAL AGENCY CONSIDERATION AND IS NOT

AVAILABLE TO PUBLIC UNDER U.S. LAW AND PRACTICE.

6. ON OCTOBER 6, 1976, INQUIRY WAS RECEIVED FROM AUSTRIAN EMBASSY (BIRBAUM) RAISING ISSUE OF TERMINATION OF CASE DISCONTINUED IN 1972. THIS LETTER ALSO BEING POUCHED. ORAL RESPONSE GIVEN TO BIRBAUM EXPLAINED THAT CASE COULD NOT BE TERMINATED NOW BECAUSE IN THE MEANTIME INFORMATION OF RENEWED DUMPING HAD BEEN RECEIVED. NO OTHER COMMUNICATION FROM EMBASSY ASKING QUESTIONS REGARDING THIS CASE HAS BEEN RECEIVED.

7. REGARDING PLASSER AND THEUERER STATEMENT THAT PRICE ASSURANCES WERE NEVER SUBMITTED TO US AUTHORITIES IN CONNECTION WITH 1972 INVESTIGATION, COPY OF THE WRITTEN STATEMENT OF ASSURANCES DATED FEBRUARY 28, 1972, IS BEING POUCHED. NOTE THAT ASSURANCES WERE THE BASIS OF THE 1972 DISCONTINUANCE WITHOUT WHICH WE WOULD HAVE WITHHELD APPRAISEMENT ON SUBJECT GOODS AND REFERRED THE LIMITED OFFICIAL USE

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CASE TO THE THEN TARIFF COMMISSION (NOW INTERNATIONAL TRADECOMMISSION) FOR INJURY CONSIDERATION.

8. COUNSEL FOR P AND T WILL MEET WITH COMPANY OFFICIALS IN VIENNA ON FEBRUARY 10. HE SUGGESTED TO TREASURY THAT U.S. CUSTOMS REPRESENTATIVE FROM FRANKFURT (TABORSKY) ALSO MEET WITH COMPANY OFFICIAL THAT DAY IF GOA OFFICIALS APPROVE. WE WOULD APPRECIATE YOUR INQUIRING IF THERE IS STILL A BARRIER TO HIS ATTENDANCE.

9. EMBASSY MAY WISH TO EMPHASIZE TO MINISTRY THAT TREASURY IS FOLLOWING THE USUAL SIX MONTH PERIOD FOR INVESTIGATION PURPOSES IN THIS CASE AND THAT ONLY VERIFIED RPT VERIFIED INFORMATION CAN BE ACCEPTED FROM P AND T. UNLESS VERIFICATION IS COMPLETED IN APRIL TREASURY WILL HAVE NO CHOICE BUT TO UTILIZE COMPLAINANTS' INFORMATION WHICH WILL RESULT IN WITHHOLDING OF APPRAISEMENT IN THIS CASE AND TENTATIVE DUMPING MARGINS OF APPROXIMATELY 23 TO 100 PER CENT.

10. REGARDING VISIT PROPOSED VISIT OF BYGATE, EMBASSY IS REQUESTED NOT TO BECOME INVOLVED WITH ANY UNOFFICIAL INQUIRIES OF BYGATE DURING OUR INVESTIGATION. ANY MEETINGS BETWEEN BYGATE AND P AND T OFFICIALS RAISES ANTITRUST IMPLICATIONS. TREASURY HAS INFORMED COUNSEL FOR TAMPER OF POSSIBLE ANTITRUST AND OTHER COMPLICATIONS RESULTING FROM A BYGATE VISIT AT THIS TIME. COUNSEL ASSURED TREASURY THAT BYGATE WILL NOT REQUEST U.S. EMBASSY

ASSISTANCE BUT WILL REQUEST ASSISTANCE OF CANADIAN EMBASSY

(TAMPER INC. IS CANADIAN OWNED).

VANCE

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*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
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Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: LPOTTS:JH
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Expiration:
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From: STATE
Handling Restrictions: n/a
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Litigation History:
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Original Previous Classification: n/a
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Previous Handling Restrictions: n/a
Reference: 77 VIENNA 296, 77 VIENNA 600
Retention: 0
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Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
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Secure: OPEN
Status: <DBA CORRECTED> jms 970908
Subject: ANTIDUMPING PROCEEDINGS -- REOPENING OF INVESTIGATION OF RAILWAY TRACK MAINTENANCE EQUIPMENT
TAGS: ETRD, AU, US
To: VIENNA
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/474c9cce-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
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